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QUFA
Queen's University Faculty Association

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Financial Exigency

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Article
38

You will have been reading or hearing that Principal Williams wants to reduce faculty salaries by about 2% through not paying for five days of work. One Member of the Board of Trustees would like the reduction to be 5% of your salary. The Board of Trustees' concern lies with running an estimated 2.3% deficit in the Operating Budget for 2009-2010. Without dealing here with the sources of this deficit, there are principles and procedures in the Queen's University / QUFA Collective Agreement to be followed to reduce the faculty salary budget if the Administration believes the institution's existence is threatened.

A collective agreement is a contract—an exchange of promises that is enforceable in a court of law (or by an Arbitrator). It is part of best practice in contract law for the parties to agree on a method of resolving disputes, in case the employer runs into dire financial difficulties, etc. At Queen's, the University Administration and QUFA together considered what would be reasonable and what they could live with during a crisis. The result is the financial exigency clause in the Queen's collective agreement.

Article 38 (Financial Exigency) in the Queen's University / QUFA Collective Agreement contains the following definition of financial exigency (38.3.1):

> A state of financial exigency occurs when substantial and recurring financial deficits threaten the survival of the University as a whole, or substantial financial losses have been projected by generally accepted accounting principles to persist for more than two (2) years and threaten the continued functioning of the University. The expectation of short-term deficits is not a state of financial exigency and can be dealt with by short-term deficit financing and/or the sale of real property, wheresoever situated, not essential to the academic function of the University.

The guiding principle in the event of a state of financial exigency can be found in 38.1.1:

> The University and the Association agree that the first duty of the University is to ensure that its academic priorities remain paramount, particularly with regard to the quality of instruction and research, and the preservation of academic freedom.

Therefore, Tenured or Tenure-Track, Continuing Adjunct, and Librarian Archivist Members with Continuing or Continuing-Track appointments

> (a) shall be laid off only during a state of financial exigency; (b) shall not be laid off until efforts have been exhausted to alleviate the financial crisis by economies in all other segments of the budget and reasonable means of improving the University's revenues have been exhausted; and (c) shall not unilaterally be terminated, dismissed, suspended, or otherwise penalized with respect to terms and conditions of employment and/or rights or privileges relating to employment on account of budgetary reasons.

The Principal decides whether a state of financial exigency exists and must notify the Board of Trustees and QUFA. Five days after notifying QUFA, the Principal must provide QUFA with the financial documentation upon which the Principal's concerns were based.
A Financial Commission consisting of five mutually agreed-upon members is then set up to confirm or reject the existence of a state of financial exigency. The onus of proof is on the Board of Trustees to establish to satisfaction of the Financial Commission that a state of financial exigency exists. Amongst the things that the Commission can consider are:

> (a) whether the University's financial position (as evidenced from the total budget and not just the academic or salary components thereof) constitutes a bona fide budgetary crisis such that deficits projected by generally accepted accounting principles are expected to

continue for more than two (2) fiscal years;

(b) whether in view of the primacy of academic goals at the University, the reduction of academic staff is a reasonable type of cost-saving;

(c) whether all reasonable means of achieving cost saving in other areas of the University budget, including the administrative area, (and including borrowing, deficit financing, and the sale of real property, wherever situated, not essential to the academic function) have been explored and taken into account;

(d) whether all reasonable means of improving the University's revenue position have been explored and taken into account;

(e) whether every effort has been made to secure further assistance from the provincial government;

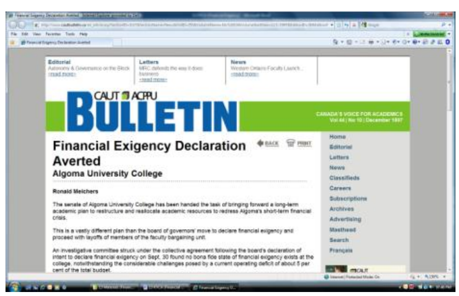
(f) whether enrolment projections are consistent with the proposed academic staff complement;

(g) whether all means of reducing the academic staff complement including voluntary retirement, voluntary resignation, voluntary reduction of appointment, and other appropriate voluntary reductions, have been exhausted; and

(h) whatever other matters the Commission considers relevant.

The Financial Commission may find that a state of financial exigency does not exist, in which case notice under this Article cannot be given again for at least twelve months. If the Commission finds that a state of financial exigency does exist, its report shall specify the amount of reduction required, if any, in the budgetary allocation for academic salaries and benefits. The reduction may be made conditional upon further exploration of specific alternative cost-saving measures by the University. After receiving the report of the Commission, both parties confer regarding its implications. The Board of Trustees may reduce the budgetary allocation for QUFA Members' salaries and benefits by laying off Members, but not by more than the amount of reduction specified by the Commission.

A Committee to Select Members for Layoff is struck (the composition of which is specified in Article 38.5.1) and the first round of layoffs will be Members with limited-term appointments not being reappointed at the end of their current term. If this does not, or will not, produce the required budgetary reduction within two years, then scoring matrices are developed for the various groups of Members with unlimited-term appointments. The factors that shall be included in the scoring matrices, how a list of Members who may be subject to layoff will be produced, and how those members will be notified, as well as how a Member receiving such a notice may plead his or her case or grieve the procedure are laid out in Article 38.5.



For an example of how an attempt to declare a state of financial exigency has played out in real life at Algoma University College in 1997-1998, see the short CAUT article at: http://www.cautbulletin.ca/en_article.asp?SectionID=1027&SectionName=News&VolID=255&VolumeName=No%2010&VolumeStartDate=12/1/1997&EditionID=28&EditionName=Vol%2044&EditionStartDate=1/1/1997&ArticleID=2625

The sorts of deficit claims are similar to those by the Queen's Administration, even though the magnitude of funds differs.

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